

Exhibit No. 45Date 1-9-09Bill No. SB 51**PROPOSED AMENDMENTS FROM THE****MONTANA PHYSICAL THERAPY ASSOCIATION.****1/9/09.***[Proposed amendments are underlined, in italic, and in red color.]*Exhibit No. # 56Date 1-9-09Bill No. SB 51

## SENATE BILL NO. 51

## INTRODUCED BY T. MURPHY

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM  
COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING A POLICY DESCRIBING RESPONSIBILITIES OF HEALTH CARE PROVIDERS TOWARD PATIENTS; REQUIRING DISCLOSURE BY REFERRING HEALTH CARE PROVIDERS OF INVESTMENT INTERESTS OR EMPLOYMENT RELATIONSHIPS; PROVIDING EXCEPTIONS; AND CLARIFYING THE PRIMARY RESPONSIBILITY OF HEALTH CARE PROVIDERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Patient information -- disclosure -- referrals.** (1) It is public policy for the state of Montana that a patient receive from health care providers information that allows the patient to make informed decisions not only relating to the patient's medical conditions but also to the financial or quality aspects of the patient's health care decisions.

(2) (a) Except as provided in subsection (3)(a), a health care provider who makes a referral and who has an investment, employment, or contractual interest related to that referral shall disclose the investment, employment, or contractual interest in writing in a statement of 100 words or less to an existing or prospective patient.

(b) The disclosure required in subsection (2)(a):

- (i) must be in at least 10 point type and on a separate piece of paper from the general paperwork received by a patient at the initiation of a visit;
- (ii) must be posted in a conspicuous place in the office or facility;
- (iii) must be provided at the initiation of a visit or, preferably, at the time of the referral; and

(iv) must state "The referring health care provider maintains an ownership interest in the facility to which you are being referred. You are not required to utilize the facility to which you are being referred for these services. These services may be available elsewhere in the community, and you are free to choose your own provider or facility."

(iv) may request a patient's signature.

(c) As required at 42 CFR 482.43(c)(7), all referring health care providers must inform the patient or the patient's family of their freedom to choose their own health care provider.

(d) This subsection (2) does not prohibit a health care provider from recommending a preferred health care provider when making a referral.

(3) (a) Except as provided in subsection (3)(b), subsection (2) does not apply to a patient receiving emergency care or to a patient admitted to a hospital, a critical access hospital, or an outpatient center for surgical services.

(b) Upon discharge, the inpatient or outpatient must be given appropriate disclosure and referral information as required under 42 CFR 482.43 or subsection (2) of this section.

(4) The disclosure required in subsection (2) may be similar to the following statement:

During the course of your relationship with this health care provider, you may be referred to another health care provider or health care facility with which your referring health care provider has an investment, employment, or contractual interest. Your referring health care provider has an (investment, employment, contractual) relationship with \_\_\_\_ (facility or health care provider) and an (investment, employment, contractual) relationship with \_\_\_\_ (facility or health care provider).

You, as a patient, have freedom to choose among health care providers and health care facilities.

(5) Disclosure to the licensing board:

(a) Notwithstanding any other provisions of law, any health care provider who has an ownership interest greater than 5% in an entity to which they are referring patients or clients must disclose to their licensing board their ownership interest.

(b) All health care providers must disclose their primary employment setting (self-employed, hospital employed, government employed, physician owned facility, employed by a non-profit agency, etc.) and ownership of that setting, to their licensing board.

(c) Disclosure of ownership and employment shall be made upon application for and renewal of the health care provider's license, on the application and renewal form.

(6) Enforcement: Failure to report ownership interests or employment interests to patients, clients, or licensing boards will result in disciplinary action by the licensing board.

(56) For the purposes of [section 2] and this section, the following definitions apply:

(a) "Diagnostic services" means magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography, ultrasound, electroencephalography, electrocardiography, nerve conduction studies, and evoked potentials.

(b) "Health care provider" is a person licensed under chapters 3, 4, 6 through 17, 20 through 28, and 34 through 36 of this title or a provider of diagnostic services who receives a medicare or medicaid payment under Titles XVIII or XIX of the Social Security Act, respectively.

(c) "Referral" is a written or oral order from a health care provider to a patient for health care services outside of a routine office exam, including:

(i) the forwarding of a patient to another health care provider with the same or a different license, to a diagnostic facility that receives medicare or medicaid payments under Titles XVIII or XIX of the Social Security Act, respectively, or to a health care facility licensed under Title 50 or operated by a health care provider licensed under this title; or

(ii) a request or establishment of a plan of care that includes the provision of prescribed health services or prescribed health care supplies.

**NEW SECTION. Section 2. Primary responsibility.** In addition to any specific policy referenced in chapters 3, 4, 6 through 17, 20 through 28, and 34 through 36 of this title, it is the public policy of this state that a health care provider's primary responsibility is the welfare of a patient in all situations except those in which the primary responsibility is to public health.

**NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 2, and the

provisions of Title 37, chapter 2, apply to [sections 1 and 2].

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